

REMARKS

Cancellation of Claims 1-37

Claims 1-37 are canceled without prejudice, waiver, or disclaimer. Applicant takes this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicant reserves the right to pursue the subject matter of these canceled claims in a continuing application, if Applicant so chooses, and does not intend to dedicate any of the canceled subject matter to the public.

Claim Rejections under 35 U.S.C. § 112

Claims 1, 5, 8, 9, 16, 20, 21, 27, 30 and 32-37 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant has canceled claims 1, 5, 8, 9, 16, 20, 21, 27, 30, and 32-37, thus rendering the rejection of those claims moot. The newly added claims 38-73 are believed to be in compliance with 35 U.S.C. § 112.

Double Patenting Rejections - Obviousness-type Double Patenting

Claims 1-37 have been rejected under the doctrine of obviousness-type double patenting as being allegedly unpatentable in view of claims 1-48 of U.S. Patent No. 6,716,895 ("the '895 patent").

Claims 1-37 have been rejected under the doctrine of obviousness-type double patenting as being allegedly unpatentable in view of claims 1-20 of U.S. Patent No. 6,596,401 ("the '401 patent").

Claims 1-8 have been rejected under the doctrine of obviousness-type double patenting as being allegedly unpatentable in view of claims 41, 43-52 and 56-58 of U.S. Patent Application No. 10/212,505 ("the '505 patent").

Claims 1-37 have been canceled, thus rendering the rejection of those claims moot.

Claim Rejections under 35 U.S.C. §102

(a) Claims 1-8, 10, and 16-21 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,173,531 to *Kissel*, U.S. Patent No. 5,728,781 to *Usuki et al.*, or U.S. Patent No. 6,063,849 to *Morris et al.* Applicant respectfully traverses the rejection of the claims based on each of the references. In addition, claims 1-8, 10, and 16-21 have been canceled herein, thus rendering the rejection of those claims moot.

(b) Claims 1-11 and 13-37 have been rejected under 35 U.S.C. 102(b or e) as being anticipated by U.S. Patent No. 5,357,636 to *Dresdner, Jr. et al.*, U.S. Patent No. 6,355,858 to *Gibbins*, or U.S. Patent No. 6,596,401 to *Terry et al.* Applicant respectfully traverses the rejection of the claims based on each of the references. In addition, claims 1-11 and 13-37 have been canceled herein, thus rendering the rejection of those claims moot.

Claim Rejections under 35 U.S.C. § 103

Claims 1-37 have been rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over *Kissel*, *Dresdner, Jr.*, *Usuki et al.*, *Morris et al.*, *Gibbins*, or *Terry et al.* Applicant respectfully traverses the rejection of the claims based on each of the references. In addition, claims 1-37 have been canceled herein, thus rendering the rejection of those claims moot.

New Claims

As identified above, claims 38-73 have been added into the application through this Response. Applicant respectfully submits that these new claims describe an invention novel and unobvious in view of the prior art of record and, therefore, respectfully requests that these claims be deemed allowable.

Specifically, claim 38 is allowable over *Kissel* for at least the reason that *Kissel* does not teach or suggest the feature of at least one “active agent in addition to the oligodynamic metal compounds,” as recited in claim 38.

Claim 38 is allowable over *Usuki et al.* for at least the reason that *Usuki et al.* does not teach or suggest the feature of at least one “active agent in addition to the oligodynamic metal compounds,” as recited in claim 38. Additionally, *Usuki et al.* does not teach or suggest the feature of “a colloid comprising ... oligodynamic metal compounds,” as recited in claim 38.

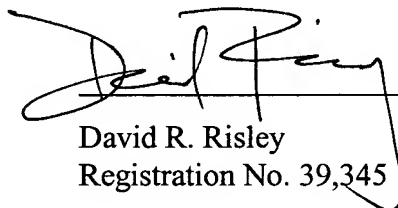
Claim 38 is allowable over *Morris et al.*, *Dresdner, Jr.*, and *Gibbins* for at least the reason that none of these references teaches or suggests the feature of “a colloid comprising a plurality of oligodynamic metal compounds,” as recited in claim 38.

Applicant submitted an Affidavit under 37 C.F.R. 132 on August 11, 2005 by the inventor Richard Terry that asserts that the Applicant is a co-inventor of the *Terry et al.* reference and that the inventions disclosed but not claimed in the *Terry et al.* reference were invented by the Applicant. Therefore, Applicant maintains that it has obviated any rejection that could be based on *Terry et al.*

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-37 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephone conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



David R. Risley
Registration No. 39,345

THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.
Suite 1750
100 Galleria Parkway N.W.
Atlanta, Georgia 30339
(770) 933-9500